

1 ROBERT J. ROSATI
e-mail: robert@erisalg.com
2 THORNTON DAVIDSON, #166487
e-mail: thornton@erisalg.com
3 ERISA Law Group
2055 San Joaquin Street
4 Fresno, California 93721-2717
Telephone: (559) 256-9800
5 Facsimile: (559) 256-9795

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7 Attorneys for Plaintiff, Victoria Wong
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9 UNITED STATES DISTRICT COURT FOR
10 THE SOUTHERN DISTRICT OF CALIFORNIA
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12 VICTORIA WONG,
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14 Plaintiff,
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16 v.
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18 AETNA LIFE INSURANCE COMPANY,
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20 Defendants.
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No.: '12CV2917 L MDD

COMPLAINT FOR:

- (1) DECLARATORY RELIEF FOR LTD
BENEFITS;
(2) DECLARATORY RELIEF FOR
REMAND FOR A FULL AND FAIR
REVIEW

1 Plaintiff Victoria Wong ("Plaintiff" or "Wong") alleges as follows:

2 **JURISDICTION**

3 1. Plaintiff's claims for relief arise under the Employee Retirement Income Security Act
4 of 1974, as amended ("ERISA"), 29 U.S.C. section 1132(a)(1). Pursuant to 29 U.S.C. section 1331,
5 this court has jurisdiction over this action because this action arises under the laws of the United
6 States of America. 29 U.S.C. section 1132(e)(1) provides for federal district court jurisdiction of this
7 action.

8 **VENUE**

9 2. Venue is proper in the Southern District of California in that Plaintiff is a resident of
10 the City of San Diego, in the County of San Diego, and in the State of California. Therefore, 29
11 U.S.C. section 1132(e)(2) provides for venue in this court.

12 **PARTIES**

13 3. Plaintiff is, and at all times relevant hereto was, a participant, as that term is defined
14 by 29 U.S.C. section 1002(7), of the Hobart West Group Inc. Long Term Disability Plan ("The
15 Plan") and thereby entitled to receive long term disability ("LTD") benefits therefrom. Plaintiff was
16 a participant because she was an employee of The Hobart West Group, Inc., for whose employees
17 benefit The Plan was established.

18 4. Defendant Aetna Life Insurance Company ("Aetna") issued long term disability
19 Group Policy No.: GP-727873 ("The Policy") to The Hobart West Group, Inc. Aetna thereby
20 insured The Plan and is obligated to provide all benefits claimed, and acted on behalf of The Plan in
21 all matters alleged herein, including making the decisions to terminate Plaintiff's LTD benefits and to
22 deny her administrative appeal of that decision.

23 **FACTS COMMON TO ALL CLAIMS FOR RELIEF**

24 5. Plaintiff incorporates by reference Paragraphs 1 through 4 inclusive, of this
25 Complaint

26 6. Plaintiff was employed by Hobart West Group, Inc. as its Western Regional Facilities
27 Manager.

28 7. Wong became disabled on December 26, 2005.

1 8. The Policy provides long term disability benefits after an elimination period of
2 90 days, for a which a person under the age of 62 at the time the disability occurred, as was Plaintiff
3 herein, such benefits potentially could continue to age 67.

4 9. The following relevant definitions and provisions are provided in the Policy:

5 A. The Policy defines disabled as:

6 “From the date that you first become disabled
7 and until Monthly Benefits are payable for 24
8 months, you will be deemed to be disabled on
any day if:

- 9 * you are not able to perform the
10 material duties of your own occupation
solely because of: disease or injury;
11 and
12 * your work earnings are 80% or less of
your adjusted predisability earnings.

13 After the first 24 months that any Monthly
14 Benefit is payable during a period of
disability, you will be deemed to be disabled
15 on any day if you are not able to work at any
reasonable occupation solely because of:

- 16 * disease; or
17 * injury

18 If your own occupation requires a professional
or occupational license or certification of any
19 kind, you will not be deemed to be disabled
solely because of the loss of that license or
20 certification.”

21 B. Reasonable Occupation is defined as:
22 “This is any gainful activity for which you are; or
23 may reasonably become; fitted by: education;
training; or experience; and which results in; or can
be expected to result in; and income of more than
60% of your adjusted pre-disability earnings.”

24 10. The provisions of The Policy regarding the meaning of “total disability” as set
25 forth in paragraph 9.A are superceded by saved-from-preemption standards of California law.

26 11. In evaluating Plaintiff’s claims for LTD benefits, Aetna failed and
27 refused to apply the proper standard of totally disabled. Notwithstanding the specific language of
28

1 The Policy, as alleged in Paragraph 9.A, under California law total disability within the meaning
2 of the term “any occupation” as contained in a general disability clause is that which prevents the
3 insured from engaging in any occupation or performing any work for compensation and which
4 prevents him/her from working with reasonable continuity in his/her customary occupation or in
5 any other occupation in which he/she might reasonably be expected to engage in view of his/her
6 station and physical and mental capacity. Therefore, California law requires an insurance
7 company to consider: (A) whether the claimant could reasonably be expected to work;
8 recognizing that the fact that the insured may do some work or even the fact that he may be
9 physically able to do so is not conclusive evidence that his/her disability is not total, if reasonable
10 care and prudence require that he/she desist; (B) given the claimant’s physical and/or mental
11 capacity; (C) and his or her station in life; (D) to perform the “substantial and material” duties of
12 his/her own occupation; (E) with “reasonable continuity;” and (F) in the usual and customary
13 way.

14 12. Here, Aetna failed and refused to:

- 15 A. utilize the proper standard of totally disabled in its communications with
16 Plaintiff.
- 17 B. utilize the proper standard of totally disabled in its evaluation of Plaintiff’s
18 claim for benefits.
- 19 C. provide its medical or vocational evaluators with the proper criteria to
20 evaluate whether Plaintiff and was totally disabled.
- 21 D. Therefore, every evaluation and conclusion Aetna reached terminating
22 Plaintiff’s LTD benefits and denying her appeal of that termination was
23 arbitrary and capricious. Aetna failed and refused to apply the proper
24 standard of totally disabled and instead utilized the more restrictive and
25 legally unenforceable definition from The Policy as set forth in Paragraph
26 9.A.

27 13. Wong was granted LTD benefits on or about September 18, 2006, and benefits
28 were paid effective March 27, 2006, the date The Policy’s elimination period was satisfied.

1 Aetna determined that due to her disability, Wong was unable to perform the substantial duties of
2 her own occupation as a Regional Facility Manager.

3 14. By letter dated October 1, 2008, Aetna notified Wong that she met the any
4 occupation definition of disability, and that based on the medical and other relevant information
5 available, she was unable to work at any reasonable occupation, and would continue to receive
6 LTD benefits.

7 15. By letter dated October 3, 2008, Aetna advised Wong that she might be eligible to
8 receive Social Security disability income ("SSDI") benefits. The letter informed Wong that as
9 long as she was receiving LTD benefits through Aetna, she would be eligible to receive
10 professional representation for her SSDI claim from Allsup, Inc., at no cost to her. The letter
11 enclosed authorization forms for Wong's execution providing Allsup, Inc., the authority to
12 represent her in her SSDI claim. The letter also informed her that her LTD benefits would be
13 reduced should she be awarded SSDI benefits. Wong agreed to representation by Allsup, Inc. for
14 her claim for SSDI benefits.

15 16. On April 9, 2010, Allsup, Inc., notified Aetna that Wong's initial claim for SSDI
16 benefits had been denied and that it would follow up for appeal. On October 22, 2010, Allsup,
17 Inc. notified Aetna that it had submitted Wong's SSDI appeal and would follow up with
18 information on a hearing date.

19 17. By letter dated January 3, 2011, Aetna terminated Wong's LTD benefits. The
20 termination letter stated that Aetna had determined that Wong had the "functional capacity to
21 perform other sedentary to light occupations based on [her] education, training, and work history
22 which would provide a reasonable wage." Additionally, the letter advised that information
23 received from Allsup, Inc., indicated that the Social Security Administration had denied her
24 claim for SSDI benefits. The letter also informed Wong that she was entitled to an appeal of the
25 adverse benefit determination; it however failed to describe the information necessary for Wong
26 to submit in order to perfect her claim.

27 18. Allsup, Inc. notified Aetna on April 21, 2011, that Wong's SSDI claim was
28 pending at the hearing level, that a brief was sent to the office of hearing and appeals, and that

1 Allsup would follow up for a hearing date. Allsup, Inc., notified Aetna on May 24, 2011 that a
2 hearing date had been set for July 22, 2011.

3 19. Wong submitted her appeal from the termination of her LTD benefits to Aetna on
4 May 24, 2011. The letter was dated March 12, 2011 as it had previously been submitted but not
5 received by Aetna. Wong's treating physician Dr. Steven Nelson also submitted a letter on behalf of
6 Wong.

7 20. By letter dated September 22, 2011, Aetna denied Wong's appeal from the
8 termination of her LTD benefits, without awaiting the results of the SSA hearing, and informed
9 Wong that its decision was not subject to further review.

10 21. On October 21, 2011, the SSA rendered its decision on Wong's SSDI claim. The
11 SSA awarded Wong SSDI benefits beginning April, 2010. The SSA Administrative Law Judge
12 found, in pertinent part:

13 "The claimant has had the following medically severe
14 combination of impairments: obesity, post partum pelvic
15 instability with associated low back and bilateral hip pain
16 which on October 6, 2009, worsened (20 CFR
17 404.1520(c))."

18 *****

19 "After careful consideration of the entire record, the
20 undersigned finds that beginning on October 6, 2009
21 (Exhibits 8F/71 and 10F/2), the claimant has the residual
22 functional capacity to perform a substantially reduced range
23 sedentary work as defined in 20 CFR 404.1567(a) because
24 the claimant could not stand, walk, or sit in combination an
25 entire eight-hour workday and must avoid all stooping,
26 kneeling, crouching, crawling, and unprotected heights."

27 *****

28 "Beginning on October 6, 2009, the claimant's residual
functional capacity declined and prevented the claimant
from being able to perform past relevant work (20 CFR
404.1565)."

"Since October 6, 2009, considering the claimant's age,
education, work experience, and residual functional
capacity, there are no jobs that exist in significant numbers
in the national economy that the claimant can perform (20
CFR 404.1560(c) and 404.1566)."

"The claimant was not disabled prior to October 6, 2009, (20 CFR 404.1520(f)) but became disabled on that date and has continued to be disabled through the date of this decision (20 CFR 404.1520(g))."

22. On October 28, 2011, Allsup, Inc. advised Aetna that Wong had been awarded SSDI benefits.

23. The SSA notified Wong of her award of SSDI benefits by letter dated November 8, 2011.

24. By letter dated November 18, 2011, Aetna notified Wong of the existence of a claimed overpayment. According the letter, Aetna was informed by Allsup, Inc., that Wong had received a Social Security Disability Income Benefit effective April 1, 2010, which gave rise to a \$12,402.00 overpayment. Aetna demanded repayment of the claimed overpayment.

FIRST CLAIM FOR RELIEF
(For Declaratory Relief For LTD Benefits Against Aetna)

25. Plaintiff incorporates Paragraph 1 through 24, inclusive of this Complaint.

26. Plaintiff has exhausted all administrative remedies required to be exhausted by the terms of the Plan and by ERISA.

27. At all times mentioned herein Plaintiff was, and continues to be, totally disabled under the Policy's definition of totally disabled, as properly construed, and therefore entitled to benefits under the terms of the Policy.

28. ERISA section 503, 29 U.S.C. section 1133 provides:

"In accordance with regulations of the Secretary, every employee benefit plan shall—

- (1) provide adequate notice in writing to any participant, beneficiary whose claim for benefits under the plan has been denied, setting forth the specific reason for such denial, written in a manner calculated to be understood by the participant, and
- (2) afford a reasonable opportunity to any participant whose claim for benefits has been denied for a full and fair review by the appropriate named fiduciary of the decision denying the claim.

1 29. Aetna is required to provide claimants full and fair reviews of their claims for
2 benefits pursuant to 29 U.S.C. section 1133 and its implementing Regulations. Specifically:

3 A. The Secretary of Labor has adopted Regulations to implement the
4 requirements of 29 U.S.C. section 1133. These Regulations are set forth in 29
5 C.F.R. section 2560.503-1 and provide, as relevant here, that employee benefit
6 plans, including Aetna herein, shall establish and maintain reasonable
7 procedures governing the filing of benefit claims, notifications of benefit
8 determinations, and appeal of adverse benefit determinations and that such
9 procedures shall be deemed reasonable only if:

- 10 i. Such procedures comply with the specifications of the Regulations.
11 ii. The claims procedures contain administrative processes and safeguards
12 designed to ensure and to verify that benefit determinations are made
13 in accordance with governing plan documents and that, where
14 appropriate, the Plan provisions have been applied consistently with
15 respect to similarly situated claimants.
16 iii. Written notice is given regarding an adverse determination (i.e., denial
17 or termination of benefits) which includes: the specific reason or
18 reasons for the adverse determination; with reference to the specific
19 plan provisions on which the determination is based; a description of
20 any additional material or information necessary for the claimant to
21 perfect the claim and an explanation of why such material or
22 information is necessary; a description of the Plan's review procedures
23 and the time limits applicable to such procedures, including a
24 statement of the claimant's right to bring a civil action under section
25 502(a) of ERISA following a denial on review; if an internal rule,
26 guideline, protocol, or similar criterion was relied upon in making the
27 adverse determination, either the specific rule, guideline, protocol, or
28 other similar criterion or a statement that such a rule, guideline,

1 protocol, or other similar criterion was relied upon in making the
2 adverse determination and that a copy of such rule, guideline, protocol,
3 or other criterion will be provided free of charge to the claimant upon
4 request.

5 iv. Aetna is required to provide a full and fair review of any adverse
6 determination which includes:

- 7 a. That a claimant shall be provided, upon request and free of
8 charge, reasonable access to, and copies of, all documents,
9 records, and other information relevant to the claimant's claim
10 for benefits.
- 11 b. A document, record, or other information shall be considered
12 "relevant" to a claimant's claim if such document, record, or
13 other information: (1) was relied upon in making the benefit
14 determination; (2) was submitted, considered, or generated in
15 the course of making the benefit determination, without regard
16 to whether such document, record, or other information was
17 relied upon in making the benefit determination; (3)
18 demonstrates compliance with the administrative processes and
19 safeguards required pursuant to the Regulations in making the
20 benefit determination; or (4) constitutes a statement of policy
21 or guidance with respect to the Plan concerning the denied
22 benefit without regard to whether such statement was relied
23 upon in making the benefit determination.
- 24 c. The Regulations further provide that for a review that takes into
25 account all comments, documents, records and other
26 information submitted by the claimant relating to the claim,
27 without regard to whether such information was submitted or
28 considered in the initial benefit determination.

- 1 d. The Regulations further provide that, in deciding an appeal of
2 any adverse determination that is based in whole or in part on a
3 medical judgment that the appropriate named fiduciary shall
4 consult with a healthcare professional who has appropriate
5 training and experience in the field of medicine involved in the
6 medical judgment.
- 7 e. The Regulations further require a review that does not afford
8 deference to the initial adverse benefit determination and that is
9 conducted by an appropriate named fiduciary of the Plan who is
10 neither the individual who made the adverse benefit
11 determination that is the subject of the appeal nor the
12 subordinate of such individual.
- 13 f. The Regulations further provide that a healthcare professional
14 engaged for the purposes of a consultation for an appeal of an
15 adverse determination shall be an individual who is neither the
16 individual who was consulted in connection adverse benefit
17 determination which was the subject of the appeal nor the
18 subordinate of any such individual.
- 19 g. The Regulations further provide that, as to disability claims, the
20 plan administrator "shall notify a claimant" of the plan's
21 determination on review within a reasonable time not later than
22 45 days after receipt of the claimant's request for review by the
23 plan unless special circumstances require an extension of time
24 for processing the claim, in which case written notice of the
25 extension shall be furnished to the claimant prior to the
26 termination of the initial 45 day period and in no event shall
27 such extension exceed a period of 45 days from the end of the
28 initial period.

1 30. Aetna denied Plaintiff a full and fair review of her claim for LTD benefits:

- 2 A. Aetna does not have, or with respect to Wong's claim and appeal, did not
3 follow administrative processes and safeguards designed to ensure and to
4 verify that benefit determinations are made in accordance with governing plan
5 documents and that, where appropriate, the Plan provisions have been applied
6 consistently with respect to similarly situated claimants.
- 7 B. Aetna did not give written notice, in reference to its January 3, 2011 letter to
8 Wong, which included: the specific reason or reasons for the adverse
9 determination; with reference to the specific plan provisions on which the
10 determination is based; a description of any additional material or information
11 necessary for Wong to perfect her claim and an explanation of why such
12 material or information was necessary; a description of the Plan's review
13 procedures and the time limits applicable to such procedures, including a
14 statement of the claimant's right to bring a civil action under section 502(a) of
15 ERISA following a denial on review;
- 16 C. Aetna, when terminating Plaintiff's claim for LTD benefits by its letter dated
17 January 3, 2011, did not provide a description of the additional material or
18 information necessary for Plaintiff to perfect her claim or an explanation of
19 why such material or information was necessary, and did not explain that if an
20 internal rule, guideline, protocol, or similar criterion was relied upon in
21 making the adverse determination, either the specific rule, guideline, protocol,
22 or other similar criterion or a statement that such a rule, guideline, protocol, or
23 other similar criterion was relied upon in making the adverse determination
24 and that a copy of such rule, guideline, protocol, or other criterion will be
25 provided free of charge to the claimant upon request.
- 26 D. Aetna, does not have, or with respect to Wong's appeal, did not follow, the
27 Regulations—which require that a review take into account all comments,
28 documents, records and other information submitted by the claimant relating

1 to the claim, without regard to whether such information was submitted or
2 considered in the initial benefit determination.

3 E. Wong, through counsel, requested that Aetna provide her with copies of all
4 documents, records, or other information relevant to her claim, as that term is
5 defined by ERISA Regulations. Aetna failed and refused to provide her with
6 all such documents records and other information, in violation of ERISA
7 Regulations.

8 F. Aetna, failed to describe the applicable provisions of The Policy in its
9 communications and decisions because saved from preemption California
10 insurance law and standards require Aetna to adopt and implement California
11 specific rules, guidelines, protocols, or other criterion, or statements of policy
12 or guidance with respect to all claimants who reside in California. Either
13 Aetna has failed to do so, in violation of California law, or Aetna failed and
14 refuse to provide said rules, guidelines, protocols, or other criterion, or
15 statements of policy or guidance to Wong in violation of ERISA.

16 G. Aetna refused to wait to receive information from Allsup, Inc., on the results
17 of Wong's SSA hearing before deciding Wong's appeal. Aetna was aware
18 that a hearing had been held, and that a decision would be issued, but decided
19 the LTD appeal without awaiting the results of the SSA hearing. In doing so,
20 Aetna failed to provide a full and fair review to Wong. Aetna's failure to wait
21 for the SSA's determination was a breach of its fiduciary duties and an abuse
22 of discretion.

23 H. Aetna failed and refused to provide all relevant documents to Plaintiff for use
24 in her appeal.

25 I. Defendant Aetna otherwise violated the Regulations.

26 31. Defendant's denial of Plaintiff's long-term disability benefits was arbitrary
27 and capricious, an abuse of discretion, and a violation of the terms of the Policy.

28 //

1 32. Aetna is judicially estopped to deny that Plaintiff is disabled because:

2 A. Wong incorporates by reference Paragraph 15, 16, 18, 21, 22, 23, and 24 of
3 this Complaint.

4 B. Defendant required Plaintiff to apply for Social Security Disability benefits,
5 and referred her case to Allsup, Inc. for representation, which representation
6 was paid for by Defendant.

7 C. Aetna routinely does business with Allsup, Inc., and is able to obtain real-time
8 claim updates on SSDI claims. According to Allsup, Inc.'s "AccessAllsup
9 Training Manual,":

10 "AccessAllsup.com is a secure, web-based case
11 management tool that enabled clients to refer claims
12 to Allsup and check on the real-time SSDI and
13 overpayment reimbursement status for both
14 individual claims and groups of claims."

15 D. Allsup, Inc., has a patented overpayment collection process. According to its
16 patent, Allsup, Inc. provides its clients, such as Aetna, with:

17 "A method of recovering overpayment of long-term
18 disability benefits paid to a claimant by a client after
19 the receipt of Social Security disability insurance
20 payment with client interaction. The overpayment
21 recovery is seamless and provides for preauthorized,
22 automated recovery of overpayments from a
23 claimant's account and increases the percentage
24 collected and reduces the collection time over
25 conventional methods. The system allows the client
26 selected computer access to participate in and monitor
27 the progress in the award and recovery of the
28 overpayment."

29 E. Plaintiff applied for SSDI benefits with Allsup, Inc.'s representation, and was
30 awarded such benefits after a hearing in which she argued and established that
31 she was entitled to SSDI benefits.

32 F. The Social Security Administration necessarily determined that Wong was
33 incapable of performing not only her own occupation but any occupation in
34 the national economy. Under the Social Security Act, a person qualifies as

1 disabled and thereby eligible for benefits only if her physical or mental
2 impairment or impairments are of such severity that she is not only unable to
3 do her previous work, but cannot, considering her age, education, and work
4 experience, engage in any other kind of substantial gainful work which exists
5 in the national economy. 42 U.S.C. § 423(d)(2)(A). Disability under the SSA
6 means inability to engage in any substantial gainful activity by reason of any
7 medically determinable physical or mental impairment which can be expected
8 to last for a continuous period of not less than 12 months; . . . 42 U.S.C. § 423
9 (d)(1)(A).

10 G. Aetna was in a privity with Wong in the SSA proceedings and therefore, with
11 Wong asserted therein that Wong could not perform her own occupation or
12 any occupation in the national economy, considering her age, education, and
13 work experience, and prevailed on that argument.

14 H. By virtue of these facts Wong acted in a trustee-like capacity for Aetna in
15 obtaining that portion of her SSDI award which reduces Wong's LTD
16 benefits; Aetna and Wong successfully argued to the SSA that Wong was
17 incapable of performing any occupation in the national economy.

18 I. Aetna is therefore judicially estopped to make the opposite argument in this
19 action, that is, to argue that given her age, education and experience, Wong is
20 capable of performing any occupation.

21 33. An actual controversy has arisen and now exists between Plaintiff, on the one hand,
22 and Aetna, on the other hand with respect to whether Plaintiff is entitled to long-term disability
23 benefits under the terms of The Policy.

24 34. Plaintiff contends, and Aetna disputes, that Plaintiff is entitled to LTD benefits under
25 the terms of The Policy because Plaintiff contends at all relevant times that she was and is disabled
26 under the terms of The Policy.

27 35. The Policy grants Aetna discretion to decide whether a claimant such as Wong, is
28 entitled to benefits. This Court is required to review the termination of Plaintiff's LTD benefits with

1 minimal deference to the Aetna's determination because:

- 2 A. Aetna is both the administrator and the funding source of benefits for the Plan,
3 and therefore has a conflict of interest;
4 B. Aetna utilized medical experts to review Plaintiff's who had a financial
5 conflict of interest, and therefore did not provide a neutral, independent
6 review process;
7 C. Aetna failed to comply with ERISA's procedural requirements regarding
8 benefit claims procedures and full and fair review of benefit claim denials.
9 D. Aetna failed to apply the proper criteria for determining whether Plaintiff was
10 totally disabled, as required by California law.
11 E. Aetna's decision-making process was affected by its economic self-interest.

12 36. Plaintiff desires a judicial determination of her rights and a declaration as to which
13 party's contention is correct, together with a declaration that Aetna is obligated to pay long-term
14 disability benefits, under the terms of The Policy, retroactive to the first day her benefits were not
15 paid, until and unless such time that Plaintiff is no longer eligible for such benefits under the terms
16 of The Policy.

17 37. A judicial determination of these issues is necessary and appropriate at this time under
18 the circumstances described herein in order that the parties may ascertain their respective rights and
19 duties, avoid a multiplicity of actions between the parties and their privities, and promote judicial
20 efficiency.

21 38. As a proximate result of Aetna's wrongful conduct as alleged herein, Plaintiff was
22 required to obtain the services of counsel to obtain the benefits to which she is entitled under the
23 terms of The Policy. Pursuant to 29 U.S.C. section 1132(g)(1), Plaintiff requests an award of
24 attorney's fees and expenses as compensation for costs and legal fees incurred to pursue Plaintiff's
25 rights.

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SECOND CLAIM FOR RELIEF
(For Declaratory Relief for Remand and for a Full and Fair Review Against Aetna)

39. Plaintiff incorporates by reference Paragraphs 1 through 38, inclusive, of this Complaint.

40. Aetna was required to accord Plaintiff a full and fair review of her claims for LTD benefits and of her appeal of the termination of her LTD benefits.

41. Aetna failed to provide Plaintiff a full and fair review of her claim or a full and fair review of the appeal from the termination of her claims for LTD benefits.

42. Unless this Court determines that Plaintiff is entitled to LTD benefits retroactive to the date LTD benefits were terminated, this Court should remand the action to the claim administrator, Aetna, and order Aetna to accord Plaintiff a full and fair review of her claim for benefits and of any further appeal of the termination of her benefits.

WHEREFORE, Plaintiff prays judgment as follows:

1. For declaratory judgment against Aetna, requiring Aetna to pay long-term disability benefits under the terms of the Policy to Plaintiff for the period to which she is entitled to such benefits, with prejudgment interest on all unpaid benefits, until Plaintiff attains the age of 67 years or until it is determined that Plaintiff is no longer eligible for benefits under the terms of the Policy.

2. Alternatively, if for any reason judgment in favor of Plaintiff is not entered as prayed, for an order remanding the matter to Aetna with instructions to accord Plaintiff a full and fair review of her claim for LTD benefits.

3. For attorney's fees pursuant to statute against defendant.

4. For costs of suit incurred.

5. For such other and further relief as the Court deems just and proper.

Dated: December 7, 2012

s/ Robert J. Rosati
ROBERT J. ROSATI
Attorney for Plaintiff,
Victoria Wong